

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PROMOTE INNOVATION LLC

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vs.

CASE NO. 2:10-CV-121-TJW-CE

RANBAXY LABORATORIES INC.

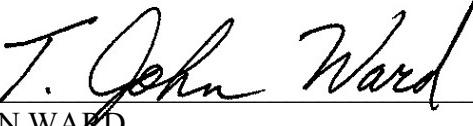
ORDER

The above-titled and numbered civil action was referred to United States Magistrate Judge Chad Everingham pursuant to 28 U.S.C. § 636. The report of the Magistrate Judge (Dkt. No. 16), which contains his recommendation that the court deny the defendant Ranbaxy Laboratories, Inc.’s (“Ranbaxy”) motion to dismiss (Dkt. No. 8), and instead grant leave for the plaintiff Promote Innovation LLC (“Promote”) to amend its complaint, has been presented for consideration.

On August 2, 2010, Promote objected to Judge Everingham’s report and recommendation (Dkt. No. 21). The plaintiff contends that it alleged an injury to the United States, and thus satisfied standing requirements, by pleading a violation of 35 U.S.C. § 292. But Promote’s complaint fails to factually allege that anyone, including the United States has suffered an injury in fact; as such, Promote fails to allege that it has standing. *Cf. Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (“At the pleading stage, general factual allegations of injury resulting from the defendant’s conduct may suffice . . .”).

The court is of the opinion that the conclusions of the Magistrate Judge are correct. Therefore, the court adopts, in its entirety, the report of the United States Magistrate Judge as the conclusions of this court. Accordingly, the court grants leave for the plaintiff to file an amended complaint within seven days. The amended complaint must clearly demonstrate standing by alleging an injury in fact.

SIGNED this 9th day of August, 2010.



T. JOHN WARD
UNITED STATES DISTRICT JUDGE